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PATENT
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: MICHAEL CLEARY - 1

Serial No.: 10/068,611

Group No.: 1732

Filed: FEBRUARY 6, 2002

Examiner: S. STAICOVICI

For: PARTICLE PRODUCTION

Hon. Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

NOTICE OF APPEAL FROM THE PRIMARY EXAMINER TO THE BOARD
OF PATENT APPEALS AND INTERFERENCES

Applicant hereby appeals to the Board from the decision of the Primary Examiner mailed

April 20, 2004 finally rejecting claims 1-4 and 8-15.

The items checked below are appropriate:

1. STATUS OF APPLICANT

This application is on behalf of

 other than a small entity

 X small entity

Small Entity - Verified statement

 attached

 X claimed on February 6, 2002

2. FEE FOR FILING NOTICE OF APPEAL

Pursuant to 37 CFR 1.17(e), the fee for filing the Notice of Appeal is:

 X small entity \$170.00

 other than a small entity \$340.00

Notice of Appeal fee due \$ 170.00

3. EXTENSION OF TERM

NOTE: The time periods set forth in 37 CFR 1.191 are subject to the provision of § 1.136 for patent applications 37 CFR 1.191(d). (But see 37 CFR 1.645 for extension of time in interference proceedings and 37 CFR 1.550(c) for extension of time in reexamination proceedings.)

CERTIFICATE OF MAILING (37 CFR 1.8a)

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to the: Commissioner of Patents and Trademarks, P.O. Box 1450, Alexandria, VA 22313.

Maria Guastella
(Type or print name of person mailing paper)

Date: October 19, 2004

(Signature of person mailing paper)

10/22/2004 MAHME1 00000040 10068611

01 FC:2401

170.00 OP

(Notice of Appeal from the Primary Examiner to Board - Page 1 of 3)

10/22/2004 MAHME1 00000040 10068611 490.00 OP
02 FC:2253

(complete (a) or (b) as applicable)

The proceedings herein are for a patent application and the provisions of 37 CFR 1.136 apply.

- (a) X Applicant petitions for an extension of time under 37 CFR 1.17(a)-(d) for the total number of months checked below:

Extension (months)	Fee for other than small entity	Fee for small entity
<u>one</u> month	\$ 110.00	\$ 55.00
<u>two</u> months	\$ 430.00	\$215.00
<u>x</u> three months	\$ 980.00	\$490.00
<u>four</u> months	\$1,530.00	\$765.00
		Fee \$ <u>490.00</u>

If an additional extension of time is required, please consider this a petition therefor.

(check and complete the next item, if applicable)

 An extension for month has already been secured and the fee paid therefor of \$ is deducted from the total fee due for the total months of extension now requested.

Extension fee due with this request \$ 490.00

or

- (b) Applicant believes that no extension of term is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition and fee for extension of time.

4. TOTAL FEE DUE

The total fee due is:

Notice of Appeal fee \$ 170.00
Extension fee (if any) \$ 490.00

TOTAL FEE DUE \$ 660.00

5. FEE PAYMENT

X Attached is a check in the sum of \$ 660.00
 Charge Account No. the sum of \$
 A duplicate of this transmittal is attached.

6. FEE DEFICIENCY

NOTE: If there is a fee deficiency and there is no authorization to charge an account, additional fees are necessary to cover the additional time consumed in making up the original deficiency. If the maximum, six-month period has expired before the deficiency is noted and corrected, the application is held abandoned. In those instances where authorization to charge is included, processing delays are encountered in returning the papers to the PTO Finance Branch in order to apply these charges prior to action on the cases. Authorization to charge the deposit account for any fee deficiency should be checked. See the Notice of April 7, 1986, 1065 O.G. 31-33.

X If any additional extension and/or fee is required, charge account No.
03-2468.

AND/OR

X If any additional fee for claims is required, charge account No.
03-2468.

Reg. No.: 35,103

Tel No.: (516) 365-9802


SIGNATURE OF ATTORNEY

Elizabeth Collard Richter
Type or print name of attorney

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